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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/725,023	10/02/96	HESS H	ESLOT-0228

VENABLE  
P.O. BOX 34385  
WASHINGTON DC 20043-9998

IM52/0512

EXAMINER
MACKEY, J

ART UNIT	PAPER NUMBER
1722	14

DATE MAILED: 05/12/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
08/725,023

Applicant(s)  
HESS ET AL.

Examiner  
James Mackey

Group Art Unit  
1722



☒ Responsive to communication(s) filed on Feb 19, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 5-18 is/are pending in the application.

Of the above, claim(s) 5-13 is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 14-18 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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1. Claims 10-13 stand withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention, the requirement having been traversed in Paper No. 6.
2. Claims 5-9 stand withdrawn from further consideration by the examiner, 37 CFR 1.142(b) as being drawn to a non-elected species. Election was made **without** traverse in Paper No. 9.
3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 14-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 14, line 9, the use of "can be" does not properly and positively recite claimed subject matter; and line 10, "under the action of a pressure medium" is unclear and indefinite as to exactly where this "action" occurs in the apparatus structure, such that the structural cooperative relationships between the apparatus elements is not clearly set forth. Moreover, "under the action of a pressure medium" on line 10 is unclear and indefinite as to whether this is a part of the "means for moving said pressure-exerting plate", or if this is an additional means. Claims 15-18 are rejected due to their dependence on indefinite claim 14.
5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by Lamb (U.S. Patent 3,222,748; Figures 1 and 2).

Lamb teaches a press mold comprising a bottom mold part 42, 46, having a mold chamber, a top mold part having a load plate (the top part of base 10), and a die comprising a die shank 22 connected to the load plate, a pressure exerting plate 12 connected to the die shank, and pressure medium means A for moving the pressure exerting plate downwardly away from the load plate, including stops 16 for defining the displacement range of the pressure exerting plate.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was

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made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

8. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walchhuetter (U.S. Patent 3,830,615) taken together with Buhler et al. (U.S. Patent 4,788,023; Figure 3).

Walchhuetter teaches the press mold substantially as claimed, comprising a bottom mold part 3 having at least one mold chamber, a top mold part having a load plate 5, and at least one die comprising a die shank 21 having one side connected to the load plate, a pressure exerting plate 6 connected to the other side of the die shank, and pressure medium means for moving the pressure exerting plate downwardly away from the load plate, including stops (elements 9-18) for defining the displacement range of the pressure exerting plate. Walchhuetter does not apparently disclose that there is one die (and associated shank, pressure exerting plate and moving means) for each mold chamber. Buhler et al. teach a press mold comprising a bottom mold part 110, 140 with a mold chamber, a top mold part with a load plate 162, 163, and a die mounted to the load plate and cooperating with the mold chamber, the die including a pressure exerting plate 130, 159 and means 164 for moving the pressure exerting plate away from the load plate. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Walchhuetter by providing a single die cooperating with a single die cavity, as disclosed in Buhler et al., since such is conventional in the press molding art for forming a single product during each press molding cycle.

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9. Claims 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walchhuetter taken together with Buhler et al., as applied to claim 14 above, and further in view of Britten (U.S. Patent 3,833,333).

Walchhuetter does not disclose that the pressure medium chamber has a movable wall. Britten teaches a press mold including a pressure medium chamber acting on a pressure exerting plate wherein the pressure medium chamber has a movable wall. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Walchhuetter by providing the pressure medium chamber with a movable wall, as disclosed in Britten, since such were equivalent means for providing the pressure medium force to the pressure exerting plate. It would have been further obvious to have provided the pressure medium as compressed air, since such is a notoriously well known fluid for use as a pressure medium, and obvious to have provided the pressure chamber in any desired location for acting upon the die press plate, since it has generally been recognized that to shift location of parts when the operation of the device is not otherwise changed is within the level of ordinary skill in the art, *In re Japikse*, 86 USPQ 70; *In re Gazda*, 104 USPQ 400. Note that the pressure medium chamber of Walchhuetter is considered to be located "in a bottom region of the die" as claimed in claim 17.

10. Applicant's arguments with respect to claims 14-18 have been considered but are moot in view of the new ground(s) of rejection.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Mackey whose telephone number is (703) 308-1195. The examiner can normally be reached on Monday-Friday from 8:30AM to 6:00PM. If attempts to reach the

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examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached at (703) 305-4251. The fax phone number for this Group is (703) 305-7718.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0651.

MACKEY/jpm  
May 10, 1999

  
**JAMES MACKEY**  
**PRIMARY EXAMINER**  
**ART UNIT 1722**

5/10/99